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In re Application of
FOLLESTAD et al.
Application No. 09/601,652
PCT No.: PCT/NO99/00043
Int. Filing Date: 09 February 1999
Priority Date: 09 February 1998
Attorney Docket No.: 09100.017
For: METHOD FOR PREPARATION
THEREOF

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: DECISION ON PETITION
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This is a response to applicants' "Renewed Submission under 37 CFR 1.42" filed 13 May 2003.

BACKGROUND

On 09 February 1999, applicants filed international application PCT/NO99/00043 which claimed a priority date of 09 February 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 August 1999. A Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, 09 August 2000.

On 04 August 2000, applicants filed a transmittal letter requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee of \$840, a copy of the international application, and a preliminary amendment.

On 23 August 2000, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e). The notification set a one-month time limit in which to respond.

On 22 January 2001, applicants filed "Completion of Filing Requirements" which included a declaration and power of attorney executed by: Arild Follestad; Vidar Almquist; Harri Hokkanen and Marit Palmqvist on behalf of deceased inventor, Ulf Palmqvist.

On 27 March 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the

application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 23 August 2000 within the time period set therein.

On 27 November 2002, applicants filed "Petition to Reinstate Application." In a decision dated 14 January 2003, applicants' petition to withdraw of holding of abandonment was granted. Applicants' request under 37 CFR 1.42 was dismissed without prejudice because the declaration was defective pursuant to 37 CFR 1.497.

On 13 May 2003, applicants filed the present renewed request under 37 CFR 1.42 and a petition for a two-month extension of time.

DISCUSSION

Request under 37 CFR 1.42.

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The substitute declaration filed 13 May 2003 is executed by Marit Palmqvist as the "sole heir and legal representative" of the deceased inventor, Ulf Palmqvist. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 13 May 2003.


CONCLUSION

The papers filed under 37 CFR 1.42 are ACCEPTED.

The application has an international filing date of 09 February 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **13 May 2003**.

Deposit Account No. 50-0548 will be charged \$400 for the two-month extension of time fee and a \$130.00 surcharge fee under 37 CFR 1.492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.


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02	FC:1252	400.00	CH	